



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

08/791,057	01/13/97	KERREBROEK	ATTORNEY DOCKET NO.
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	96-1781

FISHMAN DIONNE & CANTOR  
88 DAY HILL ROAD  
WINDSOR CT 06095

34M1/0227

KWON, J	EXAMINER
---------	----------

ART UNIT	PAPER NUMBER
34M1	6

DATE MAILED: 02/27/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/791,057**

Applicant(s)  
**Kerrebrock et al**

Examiner  
**John T. Kwon**

Group Art Unit  
**3401**



☒ Responsive to communication(s) filed on Jan 20, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3401

## DETAILED ACTION

### *Housekeeping*

Applicant(s) is(are) suggested to list a current telephone number, a facsimile number and a list of the attachments, if any, under the signature of the attorney/applicant for each response to the Office action(s) in order to expedite and make accurate the prosecution of the application.

1. No Information Disclosure Statement is in the records.

### *Drawings*

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### *Double Patenting*

3. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Art Unit: 3401

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3-17 of copending Application No. 08/782,865. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitation of the claims 1-12 are contained in the claims 4-17 (of co-pending application 08/782,865) with the exception of the counter-rotating blade rows. Claims 3-17 (of co-pending application 08/782,865) recite the same compressor without requiring the counter-rotating blade rows. Therefore, it would have been obvious to one having ordinary skill in the art to provide the same structure of the compressor in the counter-rotating blade rows of the compressor stage as an engineering expedient..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3401

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giffin (US 4,809,498) in view of the German Pat. 1,938,132. Giffin discloses a gas turbine with a counter rotating blade sets. However, Giffin does not show the use of a boundary layer collector means located on the blades. The German patent shows that the provision of a boundary layer collector means (20) located on a blade in an axial flow compressor is old and well known in the art. Since the prior art references are from the field of endeavor, the purpose disclosed by the German patent would have been recognized in the pertinent art of Giffin. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the device of Giffin with a boundary layer collector as taught by the German patent. Regarding the claimed particular shape of the collector, it would have been considered to be an obvious choice of mechanical design because one skilled in this art is familiar with basic fluid mechanic and normally has the laboratory test facilities. To optimize or select the suitable shape of the collector would be within the ability of ordinary skilled in this art.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3401

### ***Contact Information***

Any inquiry concerning this communication should be directed to Examiner Kwon at telephone number (703) 308-1046 and facsimile numbers (703) 305-3463, 3464. The examiner can normally be reached on Monday thru Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on (703) 308-1044. The fax phone number for this Group is (703) 305-3463.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**edward.look@uspto.gov**].

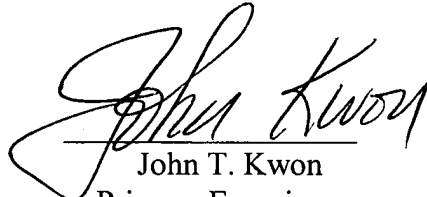
All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Serial Number: 08/791,057

Page 6

Art Unit: 3401

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.



John T. Kwon  
Primary Examiner  
Art Unit 3401

JTK  
February 23, 1998

Enclosure(s);  
See the attachment(s) section of the Office Action Summary.